G. R. S. IX-5]

Previous referen

File No. 19-17

1917
(Legis)

Serial Nos. 1-13

Later references.

68

GENERAL AND REVENUE SECRETARIAT.

Part B for Nov. 18

SUBJECT.

Power to the District Magistrates of Mysore to take proceedings under rule 41 of Indian Defence of Force Rules

To

The A. A. Resident Pol (43) D 11.11.

Forwards 12 spare copies of notifn

No 9 III Legis 19-17-11 D 8-10-18

G. R. S. 11]

No. 19-17

FILE HEADING.

Empowering the Deputy Masters in Simla to take proceedings under rule 41 of the Indian Defence Force Rules

Submitted to His Highness.

5. I submit for approval, the draft of a letter to the Residency, intimating that the Government of His Highness, have no objection to the Government of India being addressed in the matter of empowering the District Magistrates in Mysore, to take proceedings under rule 41 of the Indian Defence Force rules within the limits o their jurisdiction.

M. Krishnaraja

8/16th Nov 1917

No Pol. 453 To the J. A. Resident
Informs him that there is no
objection to the adoption of the
course suggested
No Ref. Re 631/41-10 dated 14/12/17
From the Dy Magistrate of Kolar
Solicits instructions as to whether
the Dy Magistrate may take cognizance
against European subjects under
the Baroda Indian Defence Force
Act for recovery of fines imposed
on the men of the force

as if it were an ~~passed~~ imposed by the State Court or Magistrate. The Commanding officer has ~~ought~~ power the right to observe & determine as to the course he shall adopt.

Spare copies of the Regulations are not available in the Brand. If approved, the District Magistrate will be informed accordingly

B
25/11

Objection the Special Mag.
Kolar Gold Fields may be given
cessary powers to take
proceedings under rule 41 of
the Indian Defence Force Rules, 1911
Subd.

As the magistrate has to
take action under the
Indian Defence Force Act
which has not been incorporated
into our Regns and has applies
only to the European British
subjects residing in Mysore
the appointment has
made by the Govt of

7/4/18

may to be passed Even then it will be
doubtful whether a Magistrate whose
not a European British subject can
execute such sentence. If approved,
this matter will be made clear by
a further reference to the Residency as
to the steps necessary in which action
is required of the Durbar

EB
6/4

I respectfully beg to submit that previously legal (legislative enactment) Sanction, it will not be possible to enforce the order and the notification of the Executive will not have any force & compulsion unless it is exercise of the powers conferred on him. Hence under a legislative enactment.

As Mrs Hall have no locus standi under the Indian Dependence Act they cannot frame any rules so as to bind the European British subjects

22. There are one or two features of the case in the constitution viz the Asst Assistant to the Resident & the Magistrate. Their jurisdiction extends over the whole of Nyasa. There is really no reason why they should not be empowered also under the Act to execute the Sentence of fine. If approved an enquiry could be made as suggested

8/5

Asst Mantoy

23. 4/5

8/5 Draft 8/5

Regulation enabling them to empower any Magte in Mysore to execute the sentences of fine passed by a court martial or other Officer

From. The H. A. Resident

No 4097 Dt 12. 6. 18.

States that the Govt of India have no objection to the Durbar passing the Regulation.

Maybee disposed of by Circulation.

Dewan

9.7.18

13.7.18

(For Disposal by Circulation)

1877/1918

GENERAL AND REVENUE SECRETARIAT.

COUNCIL MATTER.

SUBJECT.

(Clause ii of the Schedule)

Draft Bill to enable the Special Magistrate, Kolar Gold Fields, to execute sentences of fine passed under the Indian Defence Force Act 1917.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

C S Balasundaram

Chief *Secretary to Government.*

12th July 1918.

Extraordinary Member of Council.

First Member of Council.

Opinion recorded.

Subd. with a d.f.n. and d.s.n.
17/7

Please put up typed draft
17/7

wd. with a typed draft f.n

In favour of approval
17.7.

Dist. Menon

17/7

Fair final note signed by the Ld. Member is put up
17/7/18

D.F.n Submitted

Dewan
19/7/18

Final Note by the First Member of Council

Subject:—

Bill to enable the Special Magistrate, Kolar Gold Fields to execute sentences of fine passed under the Indian Defence Force Act, 1917.

The Residency in November 1917 brought to the notice of Government that difficulty was felt in the matter of levying in Mysore fines imposed by a Court Martial or officer empowered in that behalf, under Section 14 of the Indian Defence Force Act, 1917, as the District Magistrates in Mysore are not District Magistrates under the Indian Defence Force Rules. They therefore suggested the desirability of passing a Regulation here giving the Special Magistrate, Kolar Gold Fields, jurisdiction to levy fines in such cases. A draft Bill has accordingly been prepared and approved by all the Members of the Council.

As this matter affects European British Subjects, it is outside the jurisdiction of the Legislative Council. If approved the Residency will be asked to obtain the sanction of the Government of India.

First Member of Council

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Bill to enable the Special Magistrate Kolar Gold Fields, to execute sentences of fine passed under the Indian Defence Force Act, 1917.

Order.

Please see the letter put up

D. O. No. 7K 5469

(19

THE PALACE,
BANGALORE.

Dated 27th July 1918.

My dear Sir

As regards the Bill to enable the Special Magistrate, Kolar Gold Fields to execute sentences of fine passed under the Indian Defence Force Act, 1917 I am directed to say that the measure being not of a very important character and further being of - short duration, a notification by His Highness the - Maharaja would perhaps be more appropriate than a - formal Regulation. It is pointed out by the Assistant Secretary in his note dated the 8th May that "a notification by the Executive will not have any force in a Court of Law unless it were issued in exercise of the powers conferred on the Government by a legislative enactment". This may be the case so far as the Government is concerned. Instances are not wanting where instead of a Regulation, a notification by His Highness the Maharaja has been issued and has

been held to have the force of law and to be binding.

In the above circumstances, I am to suggest that both the bill which has been drafted and a draft notification to be issued by His Highness the Maharaja may be suggested to the Government of India and to state that whichever of the two they will choose to accept may be adopted.

I remain
yours sincerely
K. Srinivasa Rao

Sir M. Visvesvaraya, K.C.I.E.,
Dewan of Mysore,
Bangalore.

G. R. S. III-2)

General and Revenue Secretariat.

Legis File No. 19 of 191).

Serial No.	
	Subd. with a draft note and a draft letter to the Residency. For a similar note issued in the past please see No 124-34 Legis 12-03 & 9/2/1904
	~~Sd~~ draft reading of the drafts in amendment 2/8/18 prudent. For favour of approval
	& 3/8

Chief Secretary

1st member

G. R. S. III-2]

0-2917
F-2975

(22

General and Revenue Secretariat. | Legs File No. 19 of 191 7

Serial No.

Subd

with D. H. N. & D. S. N

M.O.R.
17-8-18

17/8 Asst. Member

Cffd

Jail note signed 19/8 by the Asst. Member

8/50.8 & put up

20/8/18. D.O. is submitted

Dewa

171/3.8.18

20/8/18

10 From, The F. A. Resident

No. G-1687-F-4144 dt. 26-9-18 6719

Invites a reference in the matter of authorising the Special Magistrate, K. G. F. to execute Sentences of fine passed under I. D. F. Act and enquires whether a notification on the subject has been issued, if so to forward a copy of it at an early date

Final Note by the First Member of Council

Subject:—

Authorising the Special Magistrate, Kolar Gold Fields to execute sentences of fine passed under the Indian Defence Force Act 1917.

The draft notification has been approved by the Residency in preference to the Bill. The gracious approval of His Highness the Maharaja is solicited for publishing the Notification.

20-12-1918

G. R. S. IV—6]

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* authorising the Special Magistrate, Kolar Gold Fields, to execute sentences of fine passed under the Indian Defence Force Act, 1917, *for His Highness' gracious approval.*

C. Srinivasa

Dewan.

24th Aug 1918.

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Authorising the Special Magistrate, Kolar Gold Fields, to execute sentences of fine passed under the Indian Defence Force Act, 1917.

G. R. S. III-2]

General and Revenue Secretariat.

Legis File No. 19 of 1917.

Serial No.	
10A	Letter No 6719 dated 26-Sep:1918 From the 7 A. Resid--- in Mysore Requests that a copy of the order authorising the K.G.F. Bd Magistrate to execute sentences of fine imposed under the Indian Defence Force Act be sent to him if issued Subd. The file was subd. to the Dewan on 21/8/18 with a d.s.n for sanction of His Highness the Maharaja for issue of the necessary order May this be sent to the Dewans Office to state the present stage of that fi 30/9/18

Legis File No. 19 of 1917

To The Compiler Mysore Gazette
No. G 7111 dt 8-10-18.

Notifies that the Special Magistrate K. G. F. is authorised to execute Sentence of fine passed by a Court Martial or other authority under the I. D. F. Act III of 1917 of the Governor-General of India in Council or the rules made thereunder and sent to him for execution as if it were a Sentence passed by him.

To the F. A. Randall-
No. Pol 379 dated 10th Oct. 1918
Forwards a copy of the above Note

Draft to the Residency
forwarding 12 spare copies of
No. G 7 III Legis 19-17-11 d 8th Oct 18'
herewith submitted

OR'
t. 10-18

4/10/18

Done
28/10

The F. A. Resident
No. Pol 437 DC 11-11-18.
Forwards 12 Spare Copies
notification No. G/7/III Legis
17-11 Dt 8-10-18.

FROM

MAJOR E. H. S. JAMES,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

GEN JUDICIAL
2 NOV 1917

Dated Bangalore, 1st November 1917.

SIR,

I am directed to invite a reference to the rules issued under the Indian Defence Force Act, 1917 (III of 1917). Rule 41 thereof lays down the procedure for levying fines imposed by a court martial or by an officer empowered by the Commander-in-Chief under section 14 of the Indian Defence Force Act. But the District Magistrates in Mysore not being District Magistrates under the Indian Defence Force Rules, difficulties have arisen in regard to the procedure to be followed in levying fines so imposed within Mysore territory. To obviate these and subject to the concurrence of the Durbar, it is proposed to address the Government of India with a view to all District Magistrates in Mysore being empowered to take proceedings under section 41 of the Act in question within the limits of their jurisdiction. Before, however, any action in the matter is taken, I am to enquire whether the Durbar will kindly accord their consent to the proposal.

*Army Department's Notification No 461. dated the 27th March 1917.

2. The favour of a very early reply is requested.

I have the honour to be,

No. Pol. 450

To

The P. A Resident in
Mysore Bangalore
Sir

With reference to your
letter No 8368 dated 1st Nov.
1917 enquiring if the
Durbar ~~have any Objn~~ would consent
to the Govt of India being
addressed in the matter
of empowering Dt Magis-
trates in Mysore to take
proceedings under ~~Sec~~ Rule 41
of the Indian Defence Force

Refer within the limits of
their jurisdiction I am
directed to inform you
that the Govt. of the Highlands have
no objection to the adoption of the course
suggested ~~being adopted~~

I have &c.

7th/3/11

Chief Secretary to Govt

District Magistrate's office,

Kolar District,

Dated Kolar, the 14th December 1917.

From

B. Venkoba Rao, Esquire, B.A.,

District Magistrate, Kolar District.

To

C. S. Balasundaram Iyer, Esquire, B.A.,

Chief Secretary to the Government of Mysore,

B a n g a l o r e.

Sir,

In forwarding herewith a copy of letter No.1573 dated 13th instant, received from Lt. Colonel, C.H. Richards, Commanding Kolar Gold Field Rifles, in the matter of laying formal complaints against certain men of his unit, I have the honor to solicit early instructions as to whether I may take cognizance of cases against European British subjects under the British Indian Defence Force Act which -- appears to confer jurisdiction on District Magistrates in Mysore.

2. A copy of the Indian Defence Force Act (Act III of 1917) with the rules framed thereunder may kindly be caused to be supplied to me for reference.

I have the honor to be,

Sir,

Your most obedient servant,

B. Venkoba Rao

District Magistrate,
Kolar District.

W.D. 0244—GPB—6,00,000—19[illegible]—S.

191

From 527

The District Magistrate,
Kolar District.

To

The Chief Secretary to the
Govt. of Mysore, Bangalore.

Dated 14th December 1917.

Despatched

Received

General No. Confe 631-
No. 1978

Enclosure No.

Soliciting instructions as to whether the District Magistrate may take cognizance of cases against European British Subjects under the British Indian Defence Force Act

Secy 4-45 Pm

Letter No.1573 dated 13th December 1917, from the Lt. Colonel Commanding Kolar Gold Field Rifles, to the District Magistrate,

K o l a r.

....

With reference to section I (2) of the Indian Defence Force Act (Act III of 1917) extending the provisions of the Act to all European British subjects resident within the territories of -- Indian Princes and Chiefs and Rule 35 framed under sections 14 and 15 of the Act regarding fines for certain offences imposed by the Commanding Officer of a Unit, I have the honor to enquire if I may lay formal complaints before you, so that action may be taken against certain men of my unit or, if this procedure cannot be adopted at once, I have the honor to request that you will be kind enough to move the Government of His Highness the Maharaja of Mysore for instructions on the subject.

I may add that the matter is one of extreme urgency, as one man has been fined twice and I understand does not intend to pay, and I therefore request that you will give it your early attention.

" C O P Y "

District Magistrate,
Kolar District.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section Legs
File No. 19-17
Serial No. 4

GENERAL AND REVENUE SECRETARIAT

(

, *the* 191

No. J 2306

Date of issue 31.12.17

To The Dt Magistrate
Zp Kolar Dt

Signed by Mr. G. Srinivasa

Sir

With reference to your letter ~~dated~~ Ref. Re. 631/17-18 dated 14th Dec 1917 soliciting instructions as to whether the Dt Magistrate may take cognizance of cases against European British Subjects under the British

~~Jail Subjects~~ Indian
Defence Force Act
I am directed to state
that the Dt Magistrates
~~Hereto~~ referred to in
the Rules under the
Indian Defence Force
Act are the Dt Magistrate
appointed by the Govt
of India and therefore
the rules in question
do not confer any juris-
diction on the Dt Magistrate
of the State ~~Copies of the Act and the~~
~~Rules~~ I am directed to
inform you that Your
Copies of the Act and the rules are

16 and 15 thereof on page 521 of Part-I of the Fort St. G. Gazette dated 1st May 1917 ~~and~~ the amended issue of rule 41 under sec. 13 of the Act which confers relates to the ~~and~~ execution of sentence of fine ~~is~~ published ~~at~~ page 1461 of Part-I of the Gazette of India of 1/9/17 is herewith enclosed for your ~~information~~

(9) III 16 APR 1918 J 1494 17/4/18

R. O. 2.—R. P. B.—4-1918.—500.

No. 2745. J 2464

FROM

MAJOR E. H. S. JAMES,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

19-17
5

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

GEN. & REV. SECRETARIAT III JUDICIAL 17 APR 1918

Dated Bangalore, 15th April *1918.*

SIR,

I am directed to invite a reference to your letter No. Pol. 455, dated the 16th November 1917 and to request at the instance of the Government of India that, if the Durbar see no objection, the Kolar Gold Fields special Magistrate may kindly be given the necessary powers enabling him to take proceedings under Rule 41 of the Indian Defence Force Rules, 1917. This action on the part of the Durbar will, it is bel meet the difficulties indicated in my letter No. 8368 dated t 1st November 1917.

With reference to your letter
02745 dated 15th April 1918
am directed to state that the
Durbar are inclined to doubt
their competency to empower the
Special Magistrate KBF to
take proceedings under Rule 41
of the Indian Defence Force Rules
the operation of the Indian Defence
Force Act XV is confined to
the European British subjects
over.

resident in Mysore and any notification under that Act has to be issued by the Govt of India

2. I am therefore to enquire whether it is the intention of the Govt of India that the Durbar should form a special regulation enabling them to confirm any Magistrate in Mysore to execute the sentences of fine passed by a Court Martial or other officer under the Indian Defence Force Act as if it were a sentence passed by himself

MAJOR E. H. S. JAMES,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

GEN. & REV. SECRETARIAT
III
JUDICIAL
12 JUN 1918

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

DIARY No. 2917
12 -18
SECTION Legs
FILE No. 17-17
SERIAL No. 7

Dated Bangalore, 12 June 1918

SIR,

With reference to your letter No. Pol. 1054, dated the 13th May 1918, I am directed to say that the Government of India have no objection to the Durbar passing a Regulation to enable them to empower the Kolar Gold Fields Magistrate to execute a sentence of fine passed by a Court Martial or other authority under the Indian Defence Force Act, 1917 (III of 1917), or the rules made thereunder as if it were a sentence passed by himself.

I have the honour to be,
Sir,
Your most obedient servant,

First Assistant Resident.

The H. A. Resident
in Mysore

Sir

With reference to your
letter No 4097 dated
2nd June 1918 on the
matter of authorising the
Special Magistrate K.C. F
to execute sentences of
fine passed under the
Indian Defence Force
Act, I am directed to

forward herewith a ~~copy~~
~~of a~~ draft of a Regulation
on the subject with a statem
of objects and reasons
and to state that as the
need for such authorisat
is only of short duration
Durbar consider that a
notification by His Highnes
the Maharaja would perhaps
be more appropriate than
a formal Regulation
I am therefore directe

For the drugs not appearing as
sent to the Residency and absences
by them please see SL 11.

A Bill to enable the Special ~~Kolar~~ Magistrate at the Kolar Gold Fields to execute sentences of fine passed under the Indian Defence Force Act, 1917 of ~~Baden~~

Whereas it is expedient to enable the Special Magistrate, Kolar Gold Fields, to execute sentences of fine passed under the ~~Defence of~~ Indian Defence Force Act, 1917 His Highness the Maharaja is pleased to enact as follows:-

1 This Regulation shall apply to European British Subjects residing within Mysore and shall remain in force during the continuance of the present war and for a period of six months thereafter

2. ~~In~~ the expression European British subject shall have the same meaning as

2. European British Subject" means a European British subject as defined in the Code of Criminal Procedure, 1898, of the Governor General of India in Council and shall, for the purposes of this Regulation, be deemed to include every person who before the 3rd March 1917, had filled up, signed and lodged Form A with the Registering Authority under the Registration Ordinance, I of 1917, of the Governor General of India in Council and also every person who ~~at the commencement of this~~ on the 28th February 1917 was a member of ~~the~~ of volunteers constituted under the Indian Volunteers Act 1869, of the Governor-General of India in Council

3. ~~Not Withstanding~~ Notwithstanding anything to the contrary contained in any other law for the time being in force in Mysore, the Special

Magistrate Kolar
Gold Fields, shall
execute a sentence of
fine passed by a Court
Martial or other authority
under the Indian Defence
Force Act III of 1917, of
the Governor General of India
in Council, or the rules
made thereunder, and
sent to him for execution,
as if it were a sentence
passed by himself.

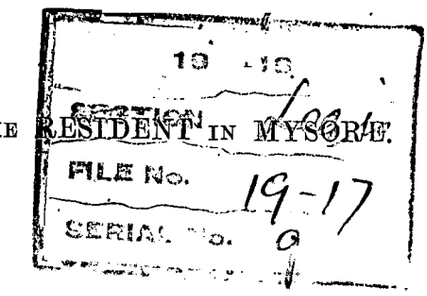
WJ 13/6/18

Statement of Objects and reasons

It was brought to the notice of Government that as the Magistrates in Mysore are not Mag istrates under the Indian Defence Force Act or Rules, difficulty is felt in executing the sentences of fine passed by Court Martials or Stren authority under the Indian Defence Force Act 1917, and the rules thereunder on European British Subjects resident Mysore To obviate such difficulty it is considered desirable to specially empower the Special Magistrate, Kolar Gold Fields, to execute such a sentence as if it were a sentence passed by

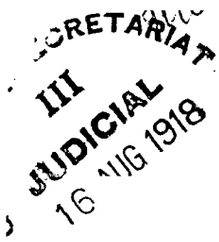
FROM

MAJOR E. H. S. JAMES,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.



To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.



Dated Bangalore, 14th August 1918

SIR,

With reference to your letter No. 154, dated the 8th August 1918, in the matter of authorising the Special - - Magistrate, Kolar Gold Field, to execute sentences of fine passed under the Indian Defence Force Act, I am directed to state, that in the Hon'ble the Resident's opinion, a notification such as that suggested ~~in your~~ in your letter under reply, would meet all requirements

I have the honour to be,
Sir,
Your most obedient servant,

E H S James

First Assistant Resident.

R. O. 2.—E. P. B.—9-1918.—500.

(49

URGENT. No. 6419

Chsec 26.9.18

19-17-10

4(4) 1 v: w4/14 26.5.18

FROM

MAJOR E. H. S. JAMES,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

Dated Bangalore, 26th September 1918.

SIR,

I am directed to invite a reference to the correspondence ending with my letter No. 5664, dated the 14th August 1918, in the matter of authorising the Special Magistrate, Kolar Gold Fields, to execute sentences of fin passed under the Indian Defence Force Act and to enquire whether a Notification on the subject has been issued. If so a copy thereof may kindly be forwarded at your - - earliest convenience.

I have the honour to be,
Sir,
Your most obedient servant,

EHS James

First Assistant Resi

Section Legis
File No. 19-14
Serial No. 11

Draft Notification
G 7111

In accordance with the decision of His Excellency the Viceroy and Governor General of India in Council, His Highness the Maharaja is pleased to notify that until further orders, the Special Magistrate, Kolar Gold Fields, is authorised to execute a

by a Court Martial or
other authority under
the Indian Defence Force
Act, III of 1917, of the
Governor General of Ind
in Council or the rule
made thereunder and
sent to him for
execution, as if it w
a sentence passed
by himself

Section Legs
File No. 19.17
Serial No. 12

No. pol. 379 Kume.

The J. A Resident

Sir

With reference to your letter ~~dated~~ No. 6719 dated 26th Sept. 1918 enquiring if the Special authority of Magistrate K.G.F. to execute sentences passed under the Indian Defence Force Act, 1917, I am directed to ~~inform you in the~~

(53

affirmative and to forward

for your information

a copy of the rule issued

in the matter [illegible]

Spare copies of the same

will be sent [illegible]

as prepared in the usual

Section Legi.
File No. 19-17
Serial No. 13

To

The H.A. Resident
in Mogadi
Sir;

In continuation of this office
letter no Pol 379, Dt 10th oct 18
I am directed to forward
herewith 12 spare copies
of notification no G 7111-Legi
19-17-11 dated 8th oct 1918